Sectt. II-27—100,006—21-5-48.

Finance (Pen) (1948) Department.

Ms SERIES.

G.O. No. 960

Dated 15-10-48.

[Despatch Abstract.]

Civil Service Regulation - Article 465-A Note 1 - Compulsory Retirement - Procedure - Instructions issued.

No.26/3/47-Ests.

Government of India.
Ministry of Home affairs.
New Delhi,3, the 12th March 1948.

OFFICE MEMORANDUM.

Sub:-Application of Section 240(3) of the Government of India Act, 1935, to cases of compulsory retirement effected in pursuance of Note 1 to Article 465-A of Civil Service Regulations.

The undersigned is directed to say that it has been held in consultation with the Advocate General of India that compulsory retirement effected in pursuance of Note 1 to Article 465-A of the Civil Service Regulations amounts to removal from service within the meaning of Section 240 (3) of the Government of India Act, 1935. This ruling may be noted for guidance.

Sd C.B.Gulati,

ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA.

AG

True copy.

No.26/8/48-Ests.

GOVERNMENT OF INDIA.

Ministry of Home Affairs

From

B.D. Tewari., Esquire, M.A., LL.B.,
Deputy Secretary to the Government of India,
New Delhi.

To

The Chief Secretary to the Government of Madras,
Public (Services) Department,

NEW DELHI-3, the 17th July 1948.

Subject:- Public Service - Application of Section 240(3) of the Government of India Act, 1935, to cases of compulsory retirement effected in pursuance of Note 1 to article 465-A of the Civil Service Regulations.

SIR,

With reference to your letter No.874/48-3 dated the 10th May 1948, on the subject noted above, I am directed to say that it has been held that section 240 (3) of the Government of India Act, 1935, is applicable to compulsory retirement effected in pursuance of Note 1 to Article 465-A of the Civil Service Regulations, as it stands, i.e. including the words "without giving any reasons etc! Accordingly the officer concerned has to be given a reasonable opportunity to show cause against the proposed action under that Section.

2. I am, however, to add that the procedure laid down in Rule 55 of the Civil Services (Classification, Control and Appeal) Rules for formal proceedings against Government servants before removing them form service is not meant to apply to cases of compulsory retirement mentioned in the preceding paragraph because Rule 55 should be read with Rule 49 of the Rules and regarded as applying only when dismissal, removal or reduction is imposed as a penalty under Rule 49.

Compulsory retirement of an officer in pursuance of Note 1 to Article 465-A of the Civil Service Regulations is not conceived as a'Penalty' imposed" for good and sufficient reasons" under Rule 49, but as the exercise of a right reserved to itself by Government under the Regulations. The ~~Provincial~~ Provincial Government also have rules similar to Rule 55 of the Civil Services (Classification, Control and Appeal) Rules referred to above for their employees the position as stated above is, therefore, brought to their notice.

3. In the circumstances explained in paras 1 and 2 above the Government of India are of the opinion that it is unnecessary, and in fact undesirable, to delete the words "without giving any reasons " in Note 1 to Article 465-A of the Civil Service Regulations.

Yours faithfully,

B.D. Tewari,

Deputy Secretary to the Government of India.

True copy

Public (Services) Department.

Letter Ref. No.814/48-3. Dated 10-5-1948.

To

The Secretary to the Government of India,
Ministry of Home Affairs,
NEW DELHI.

Sir,

Sub:- Public Services - Application of Section 240(3) of the Government of India Act, 1935 to cases of compulsory retirement effected in purusance of Note 1 to Art.465-A of CSR.

Ref:- Letter from the Government of India, Ministry of Home Affairs No.26/3/47-Ests dated 12-3-1948.

Note 1 to Article 465-A of the C.S.R. gives Government an absolute right to retire any officer after he has completed 25 years qualifying service, without giving any reasons. Section 240 (3) of the Government of India Act, 1935 on the other hand requires that no person shall be dismissed or reduced in rank unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. If the power to retire without giving any reasons is to be retained, there will be little scope for the application of section 240 (3) of the Act although it is possible to conceive of a case where an officer is simply told that he will be retired under Note 1 to Art.465-A C.S.R. and asked to show any cause he may have to show against such action being taken. I am to enquire whether the Government of India have amended Note 1 to Art.465-A of the C.S.R. and how exactly they are complying with the provisions of section 240 (3) of the Government of India Act, 1935 in cases falling under that note.

Sd X
Secretary to Government.

True copy

GOVERNMENT OF MADRAS.

Abstract.

Civil Service Regulations - Art.465-A, Note 1 - Compulsory Retirement - Procedure - Instructions issued.

(Pen).

FINANCE DEPARTMENT.

G.O.No.Ms 960 dated 15th October 1948.

Read the following:-

From the Government of India, Ministry of Home Affairs, O.M.No.26/3/47 Ests. dated 12-3-1948.

Public (Services) Department, Letter No.874/48-3, dated 10-5-1948.

From the Government of India, Ministry of Home Affairs, No.26/8/48 Ests. dated 17-7-1948.

ORDER

RECORDED.

2. The instructions contained in the Government of India's memorandum read above shall be followed in cases of compulsory retirment of officers under Note 1 to Art.465-A Civil Service Regulations.

(By Order of His Excellency the Governor)

P.Crombie,

Deputy Secretary to Government.

To the Departments of the Secretariat.
" Heads of Departments.
" Accountant General, Madras.
" Secretary, Madras Public Service Commission with C.L.
" Special Officer for Departmental Enquiries.

Copy to the Government of India Ministry of Home Affairs with C.L.

True Copy

Superintendent,
MADRAS RECORD OFFICE.

AG

25/6.